

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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<b>Commonwealth Edison Company</b>	:	
	:	
	:	<b>Docket No. 15-0287</b>
<b>Annual formula rate update and revenue</b>	:	
<b>requirement reconciliation under Section</b>	:	
<b>16-108.5 of the Public Utilities Act.</b>	:	

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**BRIEF ON EXCEPTIONS OF THE STAFF  
OF THE ILLINOIS COMMERCE COMMISSION**

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**BRIEF ON EXCEPTIONS OF THE STAFF  
OF THE ILLINOIS COMMERCE COMMISSION**

Staff of the Illinois Commerce Commission (“Staff”), by and through its counsel, pursuant to the direction of the Administrative Law Judges (“ALJs”) and Section 200.830 of the Illinois Administrative Code (83 Ill. Adm. Code 200.830), respectfully submits its Brief on Exceptions (“BOE”) in the above-captioned matter.

**I. INTRODUCTION / STATEMENT OF THE CASE**

**A. Procedural History**

On October 19, 2015, the ALJs issued a Proposed Order (“ALJPO” or “PO”). The ALJs set October 27, 2015 and November 3, 2015 for the filing of exceptions and reply exceptions, respectively. Staff recommends certain modifications and clarifications to the ALJPO. Staff’s BOE follows.

**II. OVERALL REVENUE REQUIREMENT**

**A. 2016 Initial Rate Year Revenue Requirement**

Technical Correction

There is an error on page 3 of the ALJPO with respect to the Staff 2016 Initial Rate Year Revenue Requirement. The recommended amount by Staff is \$2,431,126,000 as

reflected in Staff IB, Appendix A, Schedule 1, column (i), line 1. Due to a typo in Staff's IB (Staff IB, 4.) the amount was included in the ALJPO as \$2,431,643,000. The ALJPO also omits the word "Revenue" before "Requirement."

The Appendix to the ALJPO reflects the correct amount which is the same as the amount in the Staff IB, Appendix A. (Staff IB, Appendix A, Schedule 1, column (i), line 1.)

Proposed Modification  
(ALJPO, 3.)

ComEd presented evidence showing that its calculated 2016 Initial Rate Year Revenue Requirement as adjusted in its surrebuttal testimony is \$2,437,879,000. ComEd Ex. 12.01, SCH FR A-1, line 23. Staff recommends a 2016 Initial Rate Year Revenue Requirement of \$2,431,~~126~~643,000, as presented on line 1 in Appendix A, Schedule FY of its Initial Brief ("Init. Br."). The Commission's determination regarding the 2016 Initial Rate Year Revenue Requirement is set forth later in this Order.

B. 2014 Reconciliation Adjustment

C. ROE Collar and ROE Penalty Calculation

D. 2016 Rate Year Net Revenue Requirement

Technical Correction

There is a typographical error on page 4 of the ALJPO where the Staff 2016 Rate Year Net Revenue Requirement recommended amount of \$2,513,046,000 (Staff IB, Appendix A, Schedule 1, column (j), line 5.) was included in the ALJPO as \$2,431,126,000 which omits Staff's recommended Reconciliation Adjustment.

Staff also recommends a minor wording change to the same paragraph. The first full paragraph on page 4 of the ALJPO should refer to Staff's 2016 Rate Year Net Revenue Requirement rather than Initial Rate Year Revenue Requirement.

The Appendix to the ALJPO reflects the correct amount. (Staff IB, Appendix A, Schedule 1, column (j), line 5.)

Proposed Modification  
(ALJPO, 4.)

ComEd provided evidence that its calculated 2016 Rate Year Net Revenue Requirement, reflecting the adjustments made in rebuttal testimony, is \$2,526,971,000. ComEd Ex. 12.0 at 2; ComEd Ex. 12.01, Sch FR A-1, line 36. Staff's recommendeds 2016 Initial Rate Year Net Revenue Requirement presented in Staff Initial Brief, Appendix A, Schedule 1 FY, line ~~1~~5 is ~~\$2,431,126,000~~ \$2,513,046,000. The Commission's determination regarding the 2016 Rate Year Net Revenue Requirement is set forth later in this Order.

**III. SCOPE OF THIS PROCEEDING**

- A. The Definition of Rate Year and the Reconciliation Cycle
- B. Original Cost Finding
- C. Issues Pending on Appeal

**IV. RATE BASE**

- A. Overview
- B. 2014 Reconciliation Rate Base
- C. 2016 Initial Rate Year Rate Base
- D. Uncontested Issues
  - 1. Plant in Service
    - a. Distribution Plant
    - b. General and Intangible Plant

2. Regulatory Assets and Liabilities
3. Deferred Debits
4. Other Deferred Charges
5. Accumulated Provisions for Depreciation and Amortization
6. Accumulated Miscellaneous Operating Provisions
7. Asset Retirement Obligation
8. Customer Advances
9. Customer Deposits
10. Cash Working Capital
11. Construction Work in Progress

E. Contested Issues

1. Accumulated Deferred Income Taxes
2. ADIT Related to Plant Additions
3. ADIT Related to Bad Debt
4. Materials and Supplies

**V. OPERATING EXPENSES**

A. Overview

B. Uncontested Issues



1. Distribution O&M Expenses
2. Customer-Related O&M Expenses
3. Uncollectibles Expense
4. Administrative and General Expenses
5. Charitable Contributions
6. Merger Expense

#### Technical Corrections

In the second full paragraph on page 35 of the ALJPO in the Commission Analysis and Conclusion section, there is a reference to Exelon Corporation and Pepco Holding, Inc. applying for reconsideration to the DC Commission. The ALJPO refers to a “September 86, 2015” date, which appears to be a typo. The correct date should be inserted.

Alternative 2 in the Commission Analysis and Conclusion should include additional language to identify the source and the amount of the adjustment for merger costs which will be made if the Exelon Corporation and Pepco Holding, Inc. merger is not closed on or prior to December 1, 2015. Staff also recommends a minor wording change.

#### Proposed Modification (ALJPO, 36.)

***Alternative 2.*** The Commission finds that the merger has not closed on or prior to December 1, 2015. In order to limit the issues in this case, and without waiving its right to contest other proposed disallowances based on similar arguments in this case, or disallowances based on this or similar arguments in any other proceeding, ComEd has ~~voluntarily~~ agreed to withdraw these costs by including adjustments reducing administration and general expense by \$3,844,000 in both the reconciliation year and the filing year along with derivative changes to interest on the reconciliation balance and to cash working capital, as presented in AG-City Exhibit 4.1 and ComEd Exhibit 2.08.

7. Charges for Services provided by BSC
8. Regulatory Commission Expense (Rock Island Clean Line)
9. Depreciation and Amortization Expense
10. Taxes
11. Rate Case Expenses
12. Corporate Credit Cards (Employee Recognition)
13. Long Term Incentive Compensation Program Expenses
  - a. Key manager Long Term Performance Plan ("LTPP")
  - b. Long Term Performance Cash Award ("LTPCAP")
14. Gross Revenue Conversion Factor

C. Contested Issues

1. Short Term Incentive Compensation Program Expenses – Annual Incentive Program

Technical Correction

The ALJPO incorporates language from the Staff Initial Brief and the Staff Position Statement describing Staff's AIP adjustment proposal which Staff erroneously transcribed from Staff Ex. 7.0 and should be corrected. In rebuttal testimony, Staff witness Mr. Bridal provided the following testimony:

As stated in my direct testimony, a 150% payout for distinguished performance towards each of the eight metrics appears reasonable and in line with the **50%** payout for threshold performance and 100% payout for target performance utilized for both the AIP and LTPCAP metrics.

(Staff Ex. 7.0, 3:65-68) (emphasis added). However, the Staff Initial Brief and the Staff Position Statement stated: "...in line with the **150%** payout for threshold performance..."

(Staff Initial Brief, 12; Staff Position Statement, 12) (emphasis added) rather than the

correct 50% value from Mr. Bridal's rebuttal testimony. Staff respectfully requests the following language change to the description of Staff's position in the first full paragraph on page 47 of the ALJPO to correct the transcription error:

Proposed Modification

(ALJPO, 47.)

\* \* \*

Staff's AIP Adjustment Proposal

Staff's adjustment is made with regards to the reasonableness of the 200% payout level for distinguished performance towards each of the eight AIP metrics. ... A 150% payout for distinguished performance towards each of the eight metrics is reasonable and in line with the 450% payout for threshold performance and 100% payout for target performance utilized for both the AIP and LTPCAP metrics. ... The current use of 200% unreasonably inflates the total AIP costs beyond what is reasonable to provide market level compensation funded by ratepayers. *Id.*

\* \* \*

2. Derivative Adjustments
3. Employee Savings Plan
4. Outside Services
5. Industry Association Dues

Argument

The PO errs in rejecting Staff's adjustment to disallow 100% of the dues paid to the Utility Solid Waste Activities Group ("USWAG"). USWAG's self-described mission is "the regulation of utility wastes, byproducts and materials in a manner that protects human health and the environment and is consistent with the business needs of its members." (Staff Ex. 2.0R, 6.) If the organization's purpose is regulatory advocacy, it is unclear why only 6.2% of the dues it receives are spent on regulatory advocacy, ComEd's assertions notwithstanding. Regulatory advocacy is not an incidental activity for USWAG; regulatory

advocacy is its primary function. The services and information ComEd claims it receives from USWAG are simply by-products of that primary function. (Staff RB, 20-21.) Staff's adjustment to disallow 100% of the dues paid to USWAG is appropriate and should be adopted by the Commission:

Proposed Modification  
(ALJPO, 66-67.)

The Commission agrees with Staff's recommendation to disallow 100% of the industry association dues for IERG and USWAG, ~~but adopts ComEd's proposed 6.2% disallowance of dues paid to USWAG.~~ Section 9-224 of the Act clearly prohibits utilities from listing as an expense for the purpose of determining any rate or charge any amount expended for political activity or lobbying. In that regard, any industry association dues that are used for political activity and lobbying should be disallowed.

When a utility lists as an expense industry association dues for an association that engages in some regulatory advocacy or lobbying, the utility should provide sufficient evidence in this type of proceeding to determine what portion of those dues are attributable to regulatory advocacy or lobbying and what portion is related to other activities. Both ComEd and Staff agree that USWAG and IERG engage, at least to some extent, in regulatory advocacy.

ComEd provides two documents in support of its proposed disallowance: (1) a letter to EEI members stating that 6.2% of dues assessed to USWAG are related to non-deductible activities; and (2) a general IERG Lobbying Statement. ~~As Staff notes, EEI identifies the percent of their dues attributable to influencing legislation. Therefore, a letter from EEI to its members stating that 6.2% of the assessment for USWAG was for expenditures relating to influencing legislation is credible evidence indicating that 6.2% of dues given to USWAG relate to such activity. The Commission declines to discount the EEI letter, as Staff suggests, and will adopt ComEd's proposal to disallow only 6.2% of the dues. However, ComEd shall provide more substantive evidence in future formula rate proceedings for industry dues expenditures related to USWAG, such as a letter from USWAG indicating the amount of association dues it spends on lobbying activities for the relevant year. The letter from EEI provides the type of information that can be used to calculate how much an organization spends on lobbying activities when those activities are incidental to the organization's purpose. In this instance, USWAG's self-described mission is "to address the regulation of utility wastes, byproducts~~

and materials in a manner that protects human health and the environment and is consistent with the business needs of its members.” As it is obvious that regulatory advocacy is not an incidental activity of USWAG but its purpose, the Commission adopts Staff’s proposed 100% disallowance of industry association dues for USWAG.

**VI. RATE OF RETURN**

**VII. RECONCILIATION**

A. Overview

B. Calculation of Interest on Reconciliation Balance (ADIT Related to Reconciliation)

**VIII. REVENUES**

**IX. COST OF SERVICE AND RATE DESIGN**

**X. OTHER**

A. Wages and Salaries Allocator Utilized in Rider PE and Rate BESH

B. Reporting Requirements

1. EIMA Investments
2. Reconciliation Year Plant Additions Reporting Requirements
3. Contributions to Energy Low-Income and Support Programs

**XI. CONCLUSION**

WHEREFORE, for all of the foregoing reasons, Staff respectfully requests that the Commission’s order in this proceeding reflect all of Staff’s recommendations regarding the Company’s tariffs and charges submitted pursuant to Section 16-108.5 of the Public Utilities Act.

Respectfully submitted,

/s/

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